

Message Text

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ACTION IO-13

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E. O. 11652: N/A

TAGS: SHUM, PINT, CI

SUBJECT: COURTS REJECT APPEALS; RADIO BALMACEDA REMAINS CLOSED

REF: A) SANTIAGO 885 B) SANTIAGO A-24 C) SANTIAGO 1273

1. MILITARY AND CIVILIAN COURTS HAVE DENIED ALL EFFORTS
THUS FAR MADE BY RADIO BALMACEDA AND ITS OWNERS, THE CHRISTIAN
DEMOCRATIC PARTY (PDC), TO HAVE THE STATION RE-OPENED (REF A).
THE GOC HAS STATED THE CLOSURE WAS DUE TO THE STATIONS'S "POLITICAL"
REPORTING.

2. RADIO BALMACEDA FIRST APPEALED ITS JAN. 28 INDEFINITE CLOSURE
TO THE HIGHEST APPEALS COURT WITHIN THE MILITARY COURT SYSTEM
(THE "CORTE MARCIAL"). THE COURT DENIED THE APPEAL ON PROCEDURAL
GROUNDS, CITING A SECTION OF THE INTERNAL SECURITY LAW
(12, 927, ART. 34 N) WHICH ALLOWS FOR APPEALS ONLY WITHIN
48 HOURS. BALMACEDA HAD TAKEN 72 HOURS (OVER A WEEKEND AND WITHOUT
ACCESS TO THE DOCUMENTATION IN THE STATION PREMISES). THE COURT
CHOSE TO IGNORE PART OF THAT SAME SECTION OF LAW WHICH AUTHORIZES
CLOSURES FOR A MAXIMUM OF SIX DAYS.

3. THE PDC, AS HOLDER OF THE LICENSE UNDER WHICH RADIO

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BALMACEDA OPERATES AND MAJOR SHAREHOLDER IN THE STATION,
TURNED TO THE SANTIAGO COURT OF APPEALS. THE PDC ARGUED THAT
THE INDEFINITE CLOSURE WAS UNCONSTITUTIONAL AND DENIED THE PARTY
ITS RIGHT OF PROPERTY. THE COURT REFUSED TO APPLY THE CONSTITUTIONAL
SIGHT OF PROTECTION ("RECURSO DE PROTECCION"), CITING NEWLY
PROMULGATED DECREE LAW 1684 (REF B), WHICH REMOVED THIS RIGHT
DURING STATES OF EMERGENCY. (THERE IS SPECULATION THAT THIS

HASTILY DRAFTED LAW WAS DECREED SPECIFICALLY TO PREVENT THE PDC FROM AVAILING ITSELF OF THE RIGHT IN THIS CASE.) THE PDC HAS TAKEN THE CASE TO THE SUPREME COURT, BUT THERE APPEARS TO BE SMALL CHANCE OF A REVERSAL.

4. SENIOR PDC LEADERS TOLD EMBOFFS THE PARTY HAD TWO THEORIES ABOUT THE CLOSURE: THE STATION'S LINKING OF THE CURRENT SCANDAL INVOLVING FINANCIAL COMPANIES TO THE GOC WAS TOO MUCH FOR THE GOVERNMENT TO ACCEPT, OR THE GOC WAS TRYING TO PROVOKE THE PDC INTO TAKING ACTIONS WHICH WOULD PROVIDE JUSTIFICATION FOR CLOSING DOWN THE PARTY COMPLETELY. WARY OF THE THE LATTER POSSIBIVV-LITY, THE PDC DECIDED TO MOVE VERY CAUTIOUSLY IN THE BALMACEDA MATTER, AND INTENDED TO STICK TO THE LEGAL APPEALS PROCESS. WHICH IS EXACTLY WHAT THEY HAVE DONE.

5. THE NEW DIRECTOR OF SOCIAL COMMUNICATIONS FOR THE GOC, COL. SERGIO BADIOLA, TOLD EMBOFF FEB. 4 THAT THE GOVERNMENT HAD ACTED BECAUSE OF RADIO BALMACEDA'S TENDENTIOUS REPORTING OF THE "FINANCIERA" PROBLEM. BUT THIS HAD BEEN ONLY THE LAST STRAW, AFTER THE STATION FOR THREE YEARS HAD RECEIVED REPEATED WARNINGS AND FOUR PREVIOUS SUSPENSIONS. HE ALSO MENTIONED -- BUT NOT IN A THEATENING MANNER -- TWO OTHER SANTIAGO RADIO STATIONS THAT WERE EXCEEDING THE PERMISSILBE BOUNDS OF SELF-CENSORSHIP: THE CATHOLIC CHURCH'S RADIO CHILENA AND THE SLIGHTLY INDEPENDENT-MINDED RADIO SANTIAGO.

6. COMMENT: THE CLOSURE, APPEALS, COURT DECISIONS, AND RADIO BALMACEDA'S LONG-STANDING FINANCIAL DEFICITS HAVE GENERATED A GREAT DEAL OF PRESS COVERAGE AND EDITORIALS; MOST OF THE LATTER LIMITED OFFICIAL USE

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(INCLUDING THE CONSERVATIVE DAILY "EL MERCURIO") HAVE CRITICEZED THE GOVERNMENT ACTION. THE PDC NEVERTHELESS APPEARS TO TAKE FOR GRANTED THAT THE STATION WILL NOT REOPEN, AND WE CAN EXPECT THAT NEGATIVE REACTION TO THE CLOSURE WILL SOON DISSIPATE.
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